

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THOMAS R. AUSTIN,

Petitioner,

ORDER

v.

09-cv-0380-bbc

JODINE DEPPISCH, Warden,
Fox Lake Correctional Institution,

Respondent.

On June 23, 2009, I dismissed Thomas Austin's § 2254 petition, finding that it was a successive petition that had not been authorized by the court of appeals. Petitioner has now filed a motion asking the court to vacate the order and issue a stay of the proceedings while he seeks authorization from the court of appeals. The motion will be denied. Under 28 U.S.C. § 2244(b), this court has no jurisdiction over unauthorized successive petitions. Nunez v. United States, 96 F.3d 990, 991 (7th Cir. 1996) ("A second or successive collateral attack may no more begin in the district court than a criminal prosecution may commence in the court of appeals."). Lacking such jurisdiction, this court has no power to issue a stay.

ORDER

IT IS ORDERED that the motion of Thomas Austin for reconsideration is DENIED.

Entered this 13th of July, 2009.

BY THE COURT:

Barbara B. Crabb

BARBARA B. CRABB
District Judge